

**CalHFA** California Housing Finance Agency

October 26, 2011

The Honorable Darrell Steinberg
The Honorable Mark DeSaulnier
State Capitol
Sacramento, CA 95814

Dear Senators Steinberg and DeSaulnier:

I appreciate your interest in the California Housing Finance Agency, and have read the report prepared by the Senate Office of Oversight and Outcomes. The report's authors make some important points. I would like to address a few of them in this letter.

First, in response to your request we have asked that the CalHFA Board of Directors review the rules regarding owner-occupancy at their next meeting in January 2012. In the meantime, we will review all the data, assess possible options and prepare written materials regarding this complex set of issues.

We reiterate, as we pointed out repeatedly to the report's authors, that our past practice has been guided based on advice from our legal and bond counsel regarding their interpretation of Internal Revenue Service rules. As the Senate report notes, the IRS states that a residence may not be used as an investment or rental property. In addition, bond issuers must make a good faith effort to comply with the law. It is not lost on us that the IRS declined to make any mention of possible changes in the law. We are an Agency with direct responsibility to both our borrowers and bondholders, and we strive to strike a practical as well as legal balance.

CalHFA has made good faith efforts to comply with applicable federal statutes. These home mortgages were funded with tax-free bonds, with benefits accruing to homebuyers in the form of low-interest, first mortgage loans and we clearly stated to purchasers that these homes would need to remain owner-occupied dwellings.

Our goal as an Agency is to help meet the housing needs of California families. We are proud of having financed more than 150,000 homes since our inception and that we have always provided fully-documented, fixed-rate mortgage loans to low and moderate income first-time homebuyers. We regret any situation where we have to foreclose on a homeowner – whether it is caused by delinquency or a violation of our rules – but we have always been mindful of the important responsibilities we as an Agency have. As the report notes, just 21 loans out of the more than 23,000 loans in CalHFA's portfolio have been foreclosed due to the homeowner violating the owner-occupancy clause of the purchase contract.

In the interim, we are temporarily ceasing foreclosure procedures against anyone who has received a Notice of Default due to non-monetary default, *i.e.* those who may be renting out their residence while staying current on their payments. We will also continue our policy of allowing rentals for those with a documented hardship. For those without a documented hardship, we will tell them we are working on possible revisions of the hardship definitions; we will have more guidance after the Board review in January.

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Between now and our January board meeting, we will do everything we can to review each rental request and brief our board members about this issue so they can make a reasonable, fair recommendation regarding owner-occupancy. We are also conducting a survey of all 50 state housing finance agencies to make sure we have as much information as possible regarding rental policies. We will continue our conversations with our bond counsel, who is responsible for issuing opinions regarding the tax code compliance (or non-compliance) of our bonds. Most importantly, we will continue doing everything we can to help Californians with hardships stay in the homes they've worked so hard to make their own.

I, too, look forward to working with you as we find a resolution of this issue.

Sincerely,

A handwritten signature in dark ink, appearing to read 'C. Cappio', with a stylized flourish at the end.

Claudia Cappio
Executive Director

cc: Traci Stevens, Deputy Secretary, Legislation, BT&H
Jacob Appelsmith, Senior Advisor, Office of the Governor
CalHFA Board Members